

Message Text

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ACTION IO-11

INFO OCT-01 AF-06 ARA-06 EA-07 EUR-12 NEA-10 ISO-00

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AMEMBASSY SANTIAGO

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EO 11652: N/A

TAGS: SHUM, UN

SUBJECT: HUMAN RIGHTS COMMISSION (HRC) - CHILE DRAFT RESOLUTIONS

1. US DEL HAS SECURED TEXTS OF TWO DRAFT RESOLUTIONS WHICH APPEAR CLOSE TO FINAL VERSION LIKELY TO BE SUBMITTED UNDER CHILE HUMAN RIGHTS ITEM. DRAFTS ARE PRODUCT OF PRIVATE NEGOTIATIONS SET IN MOTION BY AD HOC WORKING GROUP CHAIRMAN ALLANA AND CONDUCTED PRINCIPALLY BY DELS OF UK, FRG, AUSTRIA, USSR, SENEGAL AND CUBA. TEXTS AT END OF THIS MESSAGE. PARA. IN BRACKETS (RES B) RELATING TO RECENT LEGISLATIVE DEVELOPMENTS IN CHILE STILL BEING NEGOTIATED.

2. CHILE ITEM WAS SCHEDULED TO BE LAUNCHED AT P.M. MEETING FEB 13 THROUGH PRESENTATION OF FINAL REPORT OF AD HOC WORKING GROUP, BUT WAS POSTPONED DUE TO ILLNESS OF ALLANA. LATTER EXPECTED TO BE IN IMPROVED HEALTH BY A.M. FEB 16.

RES A

THE COMMISSION ON HUMAN RIGHTS

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RECALLING THE TELEGRAM THAT HAD BEEN SENT ON ITS BEHALF BY THE CHAIRMAN IN 1 MARCH 1974 TO THE GOVERNMENT OF CHILE IN WHICH, INTER ALII, THE RELEASE OF SENATOR L CORVALAN AND SOME OTHER CHILEAN NOTABLE PERSONALITIES WAS REQUESTED, NOTING THAT WHILE SOME OF THE PERSONS MENTIONED IN THE ABOVE TELEGRAM HAVE BEEN RELEASED, SENATOR LUIS CORVALAN AND SOME OTHERS CONTINUE TO BE UNDER DETENTION,

EXPRESSES ITS PROFOUND CONCERN ON BEING INFORMED THAT SENATOR L CORVALAN, J CADEMARTORI, F FLORES, A JOIGNANT, L LUNA, J MONTES, T PALESTRO, A PALMR, P F RAMIREZ, E SCHNAKE, A SEPULVEDA, D VERGARA, AND S VUSKOVIC ARE LIKELY TO BE BROUGHT TO TRIAL BEFORE A MILITARY TRIBUNAL, ALTHOUGH THEY HAVE BEEN IN DETENTION FOR OVER TWO YEARS WITHOUT TRIAL,

URGES THE GOVERNMENT OF CHILE TO DESIST FROM HOLDING THE CONTEMPLATED MILITARY TRIALS AND TO RELEASE THE ABOVE MENTIONED PERSONS WITHOUT FURTHER DELAY.,

AUTHORIZES THE CHAIRMAN OF THE COMMISSION TO SEND BY TELEGRAM THE TEXT OF THIS RESOLUTION TO THE PRESIDENT OF CHILE, AS THE COMMISSION ATTACHES GREAT IMPORTANCE TO THE SUBJECT MATTER OF THIS RESOLUTION.

RES B

THE COMMISSION ON HUMAN RIGHTS

CONSCIOUS OF ITS RESPONSIBILITY TO PROMOTE AND ENCOURAGE RESPECT FOR HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS FOR ALL,

RECALLING THAT, THE UNIVERSAL DECLARATION OF HUMAN RIGHTS SOLEMNLY DECLARES THAT EVERYONE HAS THE RIGHT TO LIFE, LIBERTY AND SECURITY OF PERSON AND THE RIGHT NOT TO BE SUBJECTED TO ARBITRARY ARREST, DETENTION OR EXILE, OR TO TORTURE OR CRUEL, INHUMAN OR DEGRADING TREATMENT OF PUNISHMENT,

RECALLING GENERAL ASSEMBLY RESOLUTION 3452 (XXX) BY WHICH THE DECLARATION ON THE PROTECTION OF ALL PERSONS FROM BEING SUBJECTED TO TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT LIMITED OFFICIAL USE

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OR PUNISHMENT, WAS ADOPTED UNANIMOUSLY,

RECALLING FURTHER THE CONCERN OF THE GENERAL ASSEMBLY IN ITS RESOLUTION 3219 (XXIX) OF 6 NOVEMBER 1974 IN WHICH IT HAS EXPRESSED ITS DEEPEST CONCERN ABOUT REPORTED, CONSTANT AND FLAGRANT VIOLATIONS OF BASIC HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN CHILE AND URGED THE AUTHORITIES IN THAT COUNTRY TO TAKE ALL NECESSARY STEPS TO RESTORE AND

SAFEGUARD THEM,

RECALLING IN THIS CONNECTION THE RESOLUTION OF THE COMMISSION NO 8 (XXXI) OF 27 FEB 1975 IN WHICH THE COMMISSION HAS EXPRESSED ITS SERIOUS CONCERN ABOUT THE CONTINUING REPORTS OF VIOLATIONS OF HUMAN RIGHTS IN CHILE, AND IN WHICH IT DECIDED TO ESTABLISH AN AD HOC WORKING GROUP TO ENQUIRE INTO THE PRESENT SITUATION OF HUMAN RIGHTS IN THE SAID COUNTRY ON THE BASIS OF ALL AVAILABLE EVIDENCE INCLUDING A VISIT TO CHILE, AND APPEALED TO THE AUTHORITIES OF CHILE TO EXTEND ITS FULL COOPERATION TO THE GROUP,

NOTING GENERAL ASSEMBLY RESOLUTION 3448 (XXX) ENTITLED PROTECTION OF HUMAN RIGHTS IN CHILE,

NOTING ALSO RECENT LEGISLATIVE DEVELOPMENTS WITHIN CHILE AND IN PARTICULAR THE SUPREME DECREE 187 OF 20 JAN 1976 RELATING TO REGULATIONS FOR THE PROTECTION OF PERSONS DETAINED AS A RESULT OF THE STATE OF SIEGE),

HAVING CONSIDERED THE REPORT OF THE AD HOC WORKING GROUP (DOCUMENT E/CN.4/1188) ESTABLISHED UNDER COMMISSION RESOLUTION 8 (XXXI),

EXPRESSES ITS APPRECIATION TO THE CHAIRMAN AND MEMBERS OF THE AD HOC WORKING GROUP FOR THE REPORT WHICH HAS BEEN PREPARED IN A PAINSTAKING AND OBJECTIVE MANNER, NOTWITHSTANDING THE REFUSAL OF THE CHILEAN AUTHORITIES TO PERMIT THE GROUP TO VISIT THE COUNTRY,

REAFFIRMS ITS CONDEMNATION OF ALL FORMS OF TORTURE AND CRUEL, INHUMAN OR DEGRADING TREATMENT OF PUNISHMENT,

EXPRESSES ITS PROFOUND DISTRESS AT THE CONSTANT, FLAGRANT VIOLATIONS LIMITED OFFICIAL USE

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OF HUMAN RIGHTS, INCLUDING THE INSTITUTIONALIZED PRACTICE OF TORTURE, CRUEL, INHUMAN OR DEGRADING TREATMENT OF PUNISHMENT, ARBITRARY ARREST, DETENTION AND EXILE, TO WHICH THE PRESENT REPORT BRINGS FURTHER EVIDENCE, WHICH HAVE TAKEN PLACE AND, ACCORDING TO EXISTING EVIDENCE, CONTINUE TO TAKE PLACE IN CHILE, SOON AFTER THE ADOPTION OF GENERAL ASSEMBLY RESOLUTION 3448 (XXX),

CALLS ON THE CHILEAN AUTHORITIES TO TAKE, WITHOUT DELAY, ALL NECESSARY MEASURES TO RESTORE AND SAFEGUARD BASIC HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, AND FULLY TO RESPECT THE PROVISIONS OF THE INTERNATIONAL INSTRUMENTS TO WHICH CHILE IS A PARTY AND TO THIS END TO ENSURE THAT:

(A) THE STATE OF SIEGE OR EMERGENCY IS NOT USED FOR THE PURPOSE OF VIOLATING HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, CONTRARY

TO ARTICLE 4 OF THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS;

(B) ADEQUATE MEASURES ARE TAKEN TO END THE INSTITUTIONALIZED PRACTICE OF TORTURE AND OTHER FORMS OF CRUEL, INHUMAN OR DEGRADING TREATMENT OF PUNISHMENT IN FULL RESPECT OF ART 7 OF THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS;

(C) THE RIGHTS OF ALL PERSONS TO LIBERTY AND SECURITY OF PERSON, IN PARTICULAR THOSE WHO HAVE BEEN DETAINED WITHOUT CHARGE OR IN PRISON SOLELY FOR POLITICAL REASONS, AS PROVIDED FOR IN ART 9 OF THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS ARE FULLY GUARANTEED AND STEPS ARE TAKEN TO CLARIFY THE STATUS OF THOSE INDIVIDUALS WHO ARE NOT ACCOUNTED FOR;

(D) NO ONE SHALL BE HELD GUILTY OF ANY CRIMINAL OFFENCE ON ACCOUNT OF ANY ACT OR OMISSION WHICH DID NOT CONSTITUTE A CRIMINAL OFFENCE UNDER NATIONAL OR INTERNATIONAL LAW AT THE TIME WHEN IT WAS COMMITTED, CONTRARY TO ART 15 OF THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS;

(E) NO ONE, IN ACCORDANCE WITH ART 15 (2) OF THE UNIVERSAL DECLARATION ON HUMAN RIGHTS SHALL BE ARBITRARILY DEPRIVED OF CHILEAN NATIONALITY;

(F) THE RIGHT TO FREEDOM OF ASSOCIATION, INCLUDING THE RIGHT TO LIMITED OFFICIAL USE

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FORM AND JOIN TRADE UNIONS SHALL BE RESPECTED IN ACCORDANCE WITH ARTICLE OF THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS;

(G) THE RIGHT TO INTELLIGENT FREEDOMS AS PROVIDED FOR IN ART 19 OF THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS SHALL BE GUARANTEED;

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(H) THE REQUEST OF THE COMMISSION COUMMUNICATED BY ITS CHAIRMAN IN 1974 TO THE GOVERNMENT OF CHILE BE IMPLEMENTED THAT SENATOR CORVALAN AND OTHERS, STILL IN DETENTION, BE RELEASED AND NOT STEPS BE TAKEN AND NO TRIALS BE HELD AGAINST THEM ON A RETROACTIVE BASIS;

(I) THE COMMISSION, HAVING STUDIED THE PROGRASS REPORT AND THE PRESENT REPORT, IS LED TO THE CONCLUSION THAT ONE OF THE MOST DISTRESSING ASPECTS IS THE PREVALENCE OF TORTURE AS A REGULAR FEATURE OF THE ACTIVITIES OF SOME STATE AGENCIES; THE AGENCY THAT IS MOST FREQUENTLY MENTIONED IS DINA, BUT IT IS NOT ALONE. THE COMMISSION WOULD HOPE TO LEARN THAT THE MOST RIGOROUS MEASURES HAVE BEEN ADOPTED TO INVESTIGATE AND CONTROL THE ACTIVITIES OF THESE AGENCIES AND THAT THOSE RESPONSIBLE FOR ACTS OF TORTURE BE BROUGHT TO TRIAL,

EXTENDS THE MANDATE OF THE PRESENT FOLLOWING AD HOC WORKING GROUP TO WORK AS EXPERTS IN THEIR PERSONAL CAPACITY:- MR GHULAM ALI ALLANA (PAKISTAN, CHAIRMAN/ RAPPOREUR); MR LEOPOLDO BENITES (ECUADOR); MR FELIX ERMACORA (AUSTRIA); MR ABDOULAYE DIEYE (SENEGAL); MRS M J T KAMARA (SIERRA LEONE).

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THE ABOVE WORKING GROUP OF EXPERTS IS CONSTITUTED WITH THE TASK OF REPORTING TO THE GENERAL ASSEMBLY AT ITS THIRTY-FIRST SESSION AND TO THE COMMISSION ON HUMAN RIGHTS AT ITS THIRTY-THIRD SESSION ON THE SITUATION OF HUMAN RIGHTS IN CHILE, AND, IN PARTICULAR ANY DEVELOPMENTS WHICH MAY OCCUR TO RE-ESTALBLISH RESPECT FOR HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN IMPLEMENTATION OF GENERAL ASSEMBLY RES 3448 (XXX) AND ALL OTHER RELEVANT RESOLUTIONS AND DECISIONS OF UNITED NATIONS BODIES. BRUNGART

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